

Title: Civil Rights

Purpose

To ensure that no part of the administration or service of the WIC Program in the state of Montana will exclude from participation in, deny benefits from or subject any person to discrimination on the grounds of race, color, national origin, age, disability, or sex. Montana law requires no discrimination on the basis of religion, creed, political ideas or marital status.

Authority

7CFR Parts 15, 15a, 15b, FCS Instructions and MCA 49-2-303

Policy

The local agency will be in compliance with Title IV of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, 7 CFR Parts 1, 15a, 15b, FCS Instructions and MCA 49-2-303

I. Public Notification

- A. Once a year the State WIC Office and all local agencies are required to publicize the availability of benefits and eligibility criteria to the general public with special emphasis on pregnant women, migrants and homeless individuals. Agencies and private groups serving minority populations are included in the outreach and referral network.
- B. During and prior to the migrant season, special outreach efforts will be made to inform migrants of the availability of the Program. Outreach and referral activities are monitored by the State WIC Office staff during the on-site monitoring visit in the review of the annual outreach plan.
- C. All local agencies will have posters displayed in a place where they can be seen easily by participants and potential participants.
 - 1. Office hours
 - 2. "And Justice for All"
 - 3. "Non-Smoking"
 - 4. "Fair Hearing Procedures"
- D. Fair hearing and discrimination complaint procedures are provided to participants when they are determined ineligible for the program. Ineligible persons are provided with WIC regulation and policy statements upon request.
- E. Local agencies will communicate any changes in hours of operation or hours of new sites to the State WIC Office.

II. Bilingual Staff and Materials

- A. The local agencies will ensure required WIC services are provided to non-English or limited-English speaking persons in the appropriate language. This includes arranging for an interpreter.
- B. The local agency will ensure there are bilingual staff members or interpreters are available.
 - 1. In no circumstance will the local agency staff require another applicant or participant to interpret.
 - 2. It is not recommended local agency staff allow a child to interpret for a participant.
 - 3. Participants may choose to bring a friend or family member to interpret for them; but under no circumstance will a participant be required to do so.
- C. The local agency will ensure that all applicable rights and responsibilities are read to non-English and limited-English speaking participants or parents/guardians of applicants/participants in the appropriate language.

III. Qualified Interpreters

- A. Interpreters will be provided by the local agency for persons with hearing impairments.
 - 1. Participants are not required to provide their own interpreters although they may voluntarily choose to bring a friend or family member to interpret if they prefer.
- B. All interpreters will comply with confidentiality regulations.
- C. Quest 711 telephone relay service uses a third-party operator who transmits messages between an individual who uses a telecommunications device for the deaf and another person who uses a regular telephone.
 - 1. This service will be provided to applicants/participants during certification services or other WIC services.
 - a. To access this service in Montana dial: 1-866-897-8860; 1-800-435-8590 (Spanish)

IV. Provision of Services

- A. Each local agency that has sites not accessible to persons with disabilities, a written local policy will be developed to describe how services will be provided to the disabled.
 - 1. These provisions may include:
 - a. Service at other clinic sites
 - b. Within other accessible locations within the same clinic

2. In choosing among available methods, the local agency will give priority to methods that offer the most integrated setting appropriate for disabled persons in to obtain the full benefits of the program.
 3. The local policy will be flexible enough to and provide reasonable accommodations for cover all types of disabilities
 4. These provisions may include:
 - a. Interpreters for the deaf
 - b. Readers of Braille for individuals who are visually impaired
 5. Direct questions to the State WIC Office as these services are all allowable costs.
- B. The intent of the Americans with Disabilities Act is for people with disabilities to receive information in the form they prefer.
1. Examples of formats preferred by persons with disabilities include:
 - a. Large print
 - b. Audio tapes
 - c. Captioned videos
 - d. Braille text
 2. This information will be provided quickly, particularly because of the crucial need for nutrition education offered to pregnant participants.
 3. Information in alternate form
 - a. A person who is hearing impaired may request that a nutrition education lesson on video tape. If the same content is available in another form, such as a pamphlet, it may fulfill the request of the disabled person if that person agrees to accept it.
 4. Undue hardship
 - a. Undue hardship is an action requiring significant difficulty or expense when considered in light of factors such as employer's size, financial resources, and the nature and structure of its operation.
 - b. The Montana Department of Health and Human Services, as a governmental entity of the state of Montana, is obliged in almost all circumstances to honor requests for accessible materials. Inconvenience or moderate difficulty or expense is not sufficient reason for failing to provide nutrition education or other information in the form desired by the disabled person requiring it.

- c. If it may be demonstrated that providing information in a particular format would impose an undue hardship, it need not be provided in that form.
- d. Contact the State WIC Office for approval to deny a request based on undue hardship.

V. Alternative Materials Requested

- A. It is preferable that requests be fulfilled at the local agency level.
 - 1. If this cannot be accomplished at the local level or would unduly delay fulfillment of the request, the local agency will contact the State WIC Office for assistance within one business day.
 - a. If the local agency identifies the same request from several participants, the State WIC Office will be notified in order to facilitate production of specialized materials.
- B. An individual with disabilities has the right to choose to participate by use of regular WIC methods for delivery of nutrition education and program information even when special materials are available.
- C. There is no need to produce nutrition education materials or other information in advance, local agencies will respond to requests only as they arise.
- D. Requests will be handled in the simplest, most economical manner acceptable to the person making the request.

VI. Non-discrimination

- A. All outreach materials will contain a civil rights statement to the effect that: *This is an equal opportunity program. If you believe you have been discriminated against because of race, color, national origin, age, sex or disability, write immediately to: USDA, Director, Office of Adjunction; 1400 Independence Ave. SW; Washington, D.C. 20250-9410; or call toll free (866) 632-9992. Individuals who are hearing impaired or have speech disabilities may contact USDA through the Federal Relay service at (800) 877-8339; or for Spanish (800) 845-6136.*
- B. Found on the WIC ID program booklet as well as:
 - 1. WIC certification form
 - 2. Eligibility statement
 - 3. WIC brochures
 - 4. Press releases
 - 5. Other materials regarding WIC eligibility
 - 6. Retailer memorandum of understanding

7. Farm direct agreement

VII. Local Agency Reviews

- A. During biennial on-site visits State WIC Office staff monitor on civil rights.
- B. State WIC Office staff will check ineligible file for possible discrimination.
- C. Local agencies are required to respond to the recommendations from State WIC Offices staff in their Corrective Action Plan.
 - 1. A follow-up on their action is accomplished through additional conversations, correspondence or visits as necessary.
- D. All findings of noncompliance or probable noncompliance related to Title VI will be forwarded to the Regional Administrator, MPRO.

VIII. Pre-awarded Reviews of Potential Programs

- A. As part of the application review process, State WIC Office staff will review applications according to the outlined criteria from FCS 112-3, IX, A, 2.

IX. Complaints

- A. Local agencies will immediately refer by phone and written correspondence to the State WIC Office any complaint from an individual who feels that their civil rights have been violated.
 - 1. If the act results in the individual's denial of participation, harassment, suspension or termination from the program
 - 2. In regard to any action taken by the local agency which the individual believes is discriminatory and a violation of their race, color, national origin, sex, age or disability.
- B. The State WIC Office will immediately refer in writing such complaints to the National Office of Civil Rights for investigation. The address will also be provided to the individual should they choose to report the complaint on their own:

USDA Director
Office of Adjunction and Compliance
1400 Independence Ave, SW
Washington, DC 20250-9410
(866) 632-9992
(202) 260-1026
(202) 401-0216

- C. Any complaint regarding religion, creed, political ideas or marital status will be reported within 180 days to:

Montana Human Rights Commission
PO Box 1728
Helena, MT 59624

- D. Any person or representative alleging discrimination has the right to file a complaint within 180 days following the alleged incident.
- E. Complaints will be presented using the Civil Rights Complaint Form.
 - 1. If complainant declines to submit allegations in written form, the person receiving the call will write up the elements of the complaint by attempting to obtain as much information as possible.
 - a. Name, address telephone number or means of contacting the complainant.
 - b. Specific location and name of the State or local agency delivering the service of benefit.
 - c. The nature of the incident or action that led the complainant to feel discrimination was a factor.
 - d. The basis on which the complainant believes discrimination exists. (i.e. race, color, national origin, age, disability or sex).
 - e. Names, titles, business or personal addresses, telephone numbers of persons who may have knowledge of the alleged discriminatory action.
 - f. The date(s) during which the alleged discriminatory actions occurred, if continuing, the duration of such actions.
- F. Complaints against a local agency received by the State WIC Office will not be communicated to the local agency in order for USDA to determine whether an investigation is necessary.
- G. Through on-site reviews the State WIC Office will ascertain whether any action by the local agency is of a discriminatory nature.
 - 1. If so, the local agency would be found in violation of Title VI of the Civil Rights Act of 1964.
 - 2. Such information would be referred to USDA for investigation.
- H. Anonymous complaints will be accepted and handled as any other complaint.
- I. Throughout this process, maintain confidentiality of the individual making the civil rights complaint
 - 1. The identity of every complaint should be kept confidential except to carry out an investigation, hearing or judicial proceeding.
- J. Once a complaint is received, the information will be placed into the Civil Rights log for tracking purposes.

X. Examples of Discrimination

- A. Exclusion of eligible persons from participation in the program on the basis of race, color, national origin, sex, or disability.
- B. Unfair allocation of food to eligible persons on the basis of race, color, national origin, sex, or disability.
- C. Issuance of food benefits or delivery of foods in a place, time or manner that results in, or has the effect of, denying or limiting the benefits on the basis of race, color, national origin, sex, or disability.
- D. Selection of local agencies for participation in the program which has the effect of, or results in, limiting the availability of the program benefits or services on the basis of race, color, national origin, sex, or disability.
- E. Failure to apply the same eligibility criteria to all potential participants seeking participation in the program on the basis of race, color, national origin, sex, or disability.
- F. Certification of potential participants to receive program benefits solely on the basis of race, color, national origin, sex, or disability.
- G. Maintenance of a waiting list which makes distinctions on the basis of race, color, national origin, sex, or disability.

XI. Civil Rights Training

- A. The State WIC Office will update local agency program staff annually on all nine (9) training topics by mail or at a training on civil rights in terms of:
 - 1. Collection and use of racial/ethnic data
 - 2. Effective public notification systems
 - 3. Complaint procedures
 - 4. Compliance review techniques
 - 5. Resolution of non-compliance
 - 6. Requirements for reasonable accommodation of persons with disabilities
 - 7. Requirements for language assistance
 - 8. Conflict resolution
 - 9. Customer Service